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IN THE

Supreme Court of the United States.

OCTOBER TERM, 1900.

No. 171.

ELEANOR A. MAGRUDER, APPELLANT,

vs.

GEORGE A. ARMES ET AL., APPELLEES.

BRIEF FOR APPELLEES.

STATEMENT.

The suit in this case is apparently brought to recover damages against the marshal, defendant and attorneys concerned in a law suit, in which judgment was obtained in the District of Columbia on February 13, 1896. Pursuant to such judgment, execution was regularly issued, and levied upon property belonging to the appellant and her husband, and to escape the lien of such execution, she paid the judgment the day before sale was expected to take place.

The appellant considers herself aggrieved, and in the present case alleges in the declaration that said judgment was unfounded, the cause of action upon which it was based she alleges being insufficient; that it was furthermore void, it not being recited in the judgment that it was against the separate property of a married woman, and the execution called for costs in excess of those allowed by law. For all of these reasons, as appears from page 4 of the Record, the appellant had sought to obtain a quashal of the judgment and execution in the circuit court, but failed.

To the declaration in this case, the appellees filed a de-

murrer contending that the declaration was bad in substance for the following reasons, among others:

1. The declaration fails to state any case cognizable at law.

2. The declaration alleges grievances, all of which, if existent, could have been passed upon or were passed upon in the proceedings referred to in said declaration.

3. The declaration shows upon its face that the various alleged grievances complained of were simply steps in the orderly conduct of a law case, and not reviewable in such an action as is now brought.

4. The declaration fails to state any legal injury whatever.

5. The declaration fails to state any case of trespass or trespass on the case.

The Chief Justice of the Supreme Court of the District of Columbia sustained the demurrer, and on appeal his action was sustained by the Court of Appeals (15 Appeals, D. C., p. 379).

ARGUMENT.

It seems to us that this case may be disposed of within very narrow limits. So much as is said in the appellant's brief as to the insufficiency of the grounds upon which the prior judgment was obtained, may be at once dismissed from consideration. Certainly this court has no right to review in the extaordinary manner proposed by the appellant, the prior determination of a tribunal of inferior jurisdiction.

Similarly we may dismiss appellant's contention that the execution was void because excessive costs were sought to be recovered under it. To begin with, it is not made apparent that the costs were excessive, and even were they so, the trial court had a perfect right to control them in a motion framed for such purpose.

To the appellant's contention that the judgment was void, because it failed to recite that the former defendant was a married woman, and that the judgment was had against her separate estate, and also that the execution was void for the failure of a similar recital, we need make no response, other than to refer the court to the case of Foertsch *vs.* Germuiller, 9 App. D. C. 351, a case cited by appellant, and which demonstrates clearly that the most that could be said against the judgment was that it was erroneous in form.

The case of Bank *vs.* Pardee, 99 U. S. 325, much relied on by appellant, is based merely upon the decisions of the State of Mississippi, which were regarded as controlling in a case relating to the interpretation of a statute, and is not to be cited as an affirmation of the views of the Supreme Court of the United States.

It does not seem to us necessary to argue at any length that if the present appellant considered herself aggrieved in the prior action, it was her duty to have made her grievances known (as in fact she did) to the trial court, or to have sought the interposition immediately of a court of equity, or, in fact, in the original action to have filed a supersedeas bond to obtain the views of the Court of Appeals upon the merits, as appellant now contends she had a right to do.

But we feel relieved from an extended discussion of the law of this case by reason of the fact that an inspection of the record will show that this court should not entertain the appeal. No damages are stated justifying a demand for the recovery of $6,000 or any similar sum. The property alleged to have been wrongfully seized was worth but $1,800, and if any damages could be conceived as recoverable they would be within the limits of the jurisdiction of a justice of the peace. The amount now claimed ($6,000) was obviously fixed to give color to what is a frivolous appeal.

JACKSON H. RALSTON,
Attorney for Appellees.